

1
2
3
4
5
6
7
8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
11

12 AMERICAN ECONOMY INSURANCE
13 COMPANY, an Indiana Corporation,

14 Plaintiff,

15 vs.

16 NICEFORO HERRERA, individually and
17 doing business as Acapulco's Produce
18 Market; MELNICK PROPERTIES LLC, a
19 Connecticut Corporation; LUIS BENITEZ;
and JOHANNA BENITEZ, by and through
her guardian ad litem, Luis Benitez,

20 Defendants.

CASE NO. 06CV2395 WQH (NLS)

**ORDER REQUIRING
DEFENDANT LUIS BENITEZ TO
FILE STATEMENT**

21 HAYES, J:

22 On December 18, 2006, Plaintiff filed a Petition for Appointment of Guardian Ad Litem to
23 Defend This Action Against Minor ("Petition for Appointment") asking this Court to appoint
24 Defendant Luis Benitez as guardian ad litem for minor Defendant Johanna Benitez for the purposes
25 of defending this action of her behalf.¹ Neither Defendant Luis Benitez, nor any other party, filed a


26
27 ¹ Plaintiff brings the Petition for Appointment pursuant to Federal Rule of Civil Procedure
28 17(c), which provides:

Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent

1 response to the Petition for Appointment. It appears from the Answer, filed on December 21, 2006
2 by Defendants Luis Benitez and Johanna Benitez jointly (through their attorney), that Luis Benitez
3 consents to being appointed guardian ad litem for Johanna Benitez. However, prior to issuing an order
4 to that effect, the Court will require Luis Benitez to make his consent explicit. Therefore, no later than
5 **SEVEN (7) DAYS** from the date of entry of this Order, Defendant Luis Benitez is **ORDERED** to file
6 a statement indicating whether he consents to being appointed guardian ad litem for Johanna Benitez
7 for the purposes of litigating the above-styled action. After such time, the Court will rule on
8 Plaintiff's Petition for Appointment.

9 **IT IS SO ORDERED.**

10 DATED: January 19, 2007

11 
12 **WILLIAM Q. HAYES**
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25

26 _____
27 person who does not have a duly appointed representative may sue by a next friend or
28 by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or
incompetent person not otherwise represented in an action or shall make such other
order as it deems proper for the protection of the infant or incompetent person.
Fed. R. Civ. P. 17(c).